

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BRIAN W. JUSTICE,

Plaintiff,

v.

WELLS FARGO BANK, *et al.*,

Defendants.

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CIVIL ACTION NO. H-11-4104

ORDER OF DISMISSAL

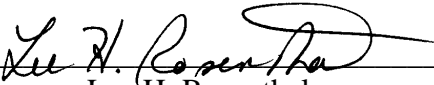
The motion filed by the plaintiff, Brian W. Justice, to dismiss this case without prejudice, is granted in part. Based on the motion and response, the record, this court's prior opinions and rulings, and the applicable law, the following order is entered:

1. The motion to dismiss without prejudice is granted as to Justice's claim that the defendants violated the Texas Finance Code, § 392.304(a)(19) and his claim for a declaratory judgment that he did not materially breach the deed of trust, that the defendants wrongfully filed for judicial foreclosure, and that the defendants forfeited the principal and interest on the loan.

2. The motion to dismiss is granted, but with prejudice, as to the claims that were previously dismissed without prejudice and leave to amend, but as to which Justice has failed to file any amended pleading. Those claims are for fraudulent and negligent misrepresentation; malice; constructive fraud; and an accounting. They are now dismissed, with prejudice.

3. Each party must pay its own costs.

SIGNED on December 10, 2012, at Houston, Texas.



Lee H. Rosenthal
United States District Judge